

Senate File 425

S-3146

1 Amend Senate File 425 as follows:

2 1. By striking everything after the enacting clause and  
3 inserting:

4 <DIVISION I

5 IOWA MINOR GUARDIANSHIP PROCEEDINGS ACT

6 Section 1. NEW SECTION. 232D.101 Title.

7 This chapter shall be known as the "*Iowa Minor Guardianship*  
8 *Proceedings Act*".

9 Sec. 2. NEW SECTION. 232D.102 Definitions.

10 1. "*Adult*" means a person eighteen years of age or older  
11 or a person declared to be emancipated by a court of competent  
12 jurisdiction.

13 2. "*Conservator*" means a person appointed by a court to have  
14 custody and control of the property of a minor.

15 3. "*Court*" means the juvenile court established under  
16 section 602.7101.

17 4. "*Demonstrated lack of consistent parental participation*"  
18 means the refusal of a parent to comply with duties and  
19 responsibilities imposed upon a parent by the parent-child  
20 relationship, including but not limited to providing the minor  
21 with necessary food, clothing, shelter, health care, education,  
22 and other care and supervision necessary for the minor's  
23 physical, mental, and emotional health and development.

24 5. "*Guardian*" means a person appointed by the court to have  
25 custody of a minor.

26 6. "*Legal custodian*" means a person awarded legal custody  
27 of a minor.

28 7. "*Legal custody*" means an award of the rights of legal  
29 custody of a minor under which a parent has legal custodial  
30 rights and responsibilities toward the minor child including  
31 but not limited to decision making affecting the minor's legal  
32 status, medical care, education, extracurricular activities,  
33 and religious instruction.

34 8. "*Limited guardianship*" means a guardianship that grants  
35 the guardian less than all powers available under this chapter

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1 or otherwise restricts the powers of the guardian.

2 9. "*Minor*" means an unmarried and unemancipated person under  
3 the age of eighteen years.

4 10. "*Parent*" means a biological or adoptive mother or father  
5 of a child, a person whose parental status has been established  
6 by operation of law due to the person's marriage to the mother  
7 at the time of the conception or birth of the child, by order  
8 of a court of competent jurisdiction, or by an administrative  
9 order when authorized by state law. "*Parent*" does not include a  
10 person whose parental rights have been terminated.

11 Sec. 3. NEW SECTION. 232D.103 Jurisdiction.

12 The juvenile court has exclusive jurisdiction in a  
13 guardianship proceeding concerning a minor who is alleged to  
14 be in need of a guardianship.

15 Sec. 4. NEW SECTION. 232D.104 Venue.

16 1. Venue for guardianship proceedings under this chapter  
17 shall be in the judicial district where the minor is found or  
18 in the judicial district of the minor's residence.

19 2. The court may transfer a guardianship proceeding brought  
20 under this chapter to the juvenile court of any county having  
21 venue at any stage in the proceedings as follows:

22 a. When it appears that the best interests of the minor  
23 or the convenience of the proceedings shall be served by a  
24 transfer, the court may transfer the case to the court of the  
25 county of the minor's residence.

26 b. With the consent of the receiving court, the court may  
27 transfer the case to the court of the county where the minor is  
28 found.

29 3. The court shall transfer the case by ordering the  
30 transfer and a continuance and by forwarding to the clerk  
31 of the receiving court a certified copy of all papers filed  
32 together with an order of transfer. The judge of the receiving  
33 court may accept the filings of the transferring court or may  
34 direct the filing of a new petition and hear the case anew.

35 Sec. 5. NEW SECTION. 232D.105 Proceedings governed by other

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1 law.

2 1. A petition alleging that a minor is in need of a  
3 conservatorship is not subject to this chapter. Such  
4 proceedings shall be governed by chapter 633 and may be  
5 initiated pursuant to section 633.627.

6 2. A petition for the appointment of a guardian for a minor  
7 and a petition for appointment of a conservator of a minor  
8 shall not be combined.

9 3. If a minor guardianship proceeding under this chapter  
10 pertains to an Indian child as defined in section 232B.3 and  
11 the proceeding is subject to the Iowa Indian child welfare Act  
12 under chapter 232B, the proceeding and other actions taken in  
13 connection with the proceeding shall comply with chapter 232B.

14 Sec. 6. NEW SECTION. 232D.106 **Applicability of rules of**  
15 **civil procedure.**

16 The rules of civil procedure shall govern guardianship  
17 proceedings concerning a minor who is alleged to be in need of  
18 a guardianship except as otherwise set forth in this chapter.

19 Sec. 7. NEW SECTION. 232D.201 **Termination of parental**  
20 **rights and child in need of assistance cases.**

21 1. The court may appoint a guardian for a minor who does not  
22 have a guardian if all parental rights have been terminated.

23 2. The court may appoint a guardian for a minor in a child  
24 in need of assistance case pursuant to section 232.101A,  
25 232.103A, or 232.104.

26 Sec. 8. NEW SECTION. 232D.202 **Death of parents.**

27 1. The court may appoint a guardian for a minor if both  
28 parents are deceased.

29 2. In appointing a guardian for a minor whose parents are  
30 deceased, the court shall give preference to a person, if  
31 qualified and suitable, nominated as guardian for a minor by a  
32 will that was executed by the parent or parents having legal  
33 custody of the minor at the time of the parent's or parents'  
34 death, and that was admitted to probate under chapter 633.

35 Sec. 9. NEW SECTION. 232D.203 **Guardianship with parental**

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1 consent.

2 1. The court may appoint a guardian for a minor if the court  
3 finds all of the following:

4 a. The parent or parents having legal custody of the minor  
5 understand the nature of the guardianship and knowingly and  
6 voluntarily consent to the guardianship.

7 b. The minor is in need of a guardianship because of any one  
8 of the following:

9 (1) The parent having legal custody of the minor has a  
10 physical or mental illness that prevents the parent from  
11 providing care and supervision of the child.

12 (2) The parent having legal custody of the minor is  
13 incarcerated or imprisoned.

14 (3) The parent having legal custody of the minor is on  
15 active military duty.

16 (4) The minor is in need of a guardianship for some other  
17 reason constituting good cause shown.

18 c. Appointment of a guardian for the minor is in the best  
19 interest of the minor.

20 2. If the guardianship petition requests a guardianship  
21 with parental consent, the petition shall include an affidavit  
22 signed by the parent or parents verifying that the parent or  
23 parents knowingly and voluntarily consent to the guardianship.  
24 The consent required by this subsection shall be on a form  
25 prescribed by the judicial branch.

26 3. On or before the date of the hearing on the petition,  
27 the parent or parents and the proposed guardian shall file  
28 an agreement with the court. This agreement shall state the  
29 following:

30 a. The responsibilities of the guardian.

31 b. The responsibilities of the parent or parents.

32 c. The expected duration of the guardianship, if known.

33 4. If the court grants the petition, it shall approve the  
34 guardianship agreement between the custodial parent and the  
35 proposed guardian and incorporate its terms by reference unless

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1 the court finds the agreement was not reached knowingly and  
2 voluntarily or is not in the best interests of the child.

3 Sec. 10. NEW SECTION. 232D.204 Guardianship without  
4 parental consent.

5 1. The court may appoint a guardian for a minor without the  
6 consent of the parent or parents having legal custody of the  
7 minor if the court finds by clear and convincing evidence all  
8 of the following:

9 a. There is a person serving as a de facto guardian of the  
10 minor.

11 b. There has been a demonstrated lack of consistent  
12 parental participation in the life of the minor by the parent.  
13 In determining whether a parent has demonstrated a lack of  
14 consistent participation in the minor's life, the court may  
15 consider all of the following:

16 (1) The intent of the parent in placing the custody, care,  
17 and supervision of the minor with the person petitioning as a  
18 de facto guardian and the facts and circumstances regarding  
19 such placement.

20 (2) The amount of communication and visitation of the parent  
21 with the minor during the alleged de facto guardianship.

22 (3) Any refusal of the parent to comply with conditions for  
23 retaining custody of the minor set forth in any previous court  
24 orders.

25 2. The court may appoint a guardian for a minor without the  
26 consent of the parent or parents having legal custody of the  
27 minor if the court finds by clear and convincing evidence all  
28 of the following:

29 a. No parent having legal custody of the minor is willing or  
30 able to exercise the power the court will grant to the guardian  
31 if the court appoints a guardian.

32 b. Appointment of a guardian for the minor is in the best  
33 interest of the minor.

34 3. Prior to granting a petition for guardianship, the  
35 court shall consider whether the filing of a child in need of

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1 assistance petition is appropriate under section 232.87. If  
2 the court determines a child in need of assistance petition is  
3 not appropriate, the court shall make findings of why a child  
4 in need of assistance petition is not appropriate.

5 4. A proceeding under this section shall not create a new  
6 eligibility category for the department of human services  
7 protective services.

8 Sec. 11. NEW SECTION. 232D.301 Petition.

9 1. Proceedings for guardianship pursuant to this chapter  
10 may be initiated by the filing of a petition by any person with  
11 an interest in the welfare of the minor.

12 2. The petition shall list, to the extent known, all of the  
13 following:

14 a. The name, age, and address of the minor who is the  
15 subject of the petition.

16 b. The name and address of the petitioner and the  
17 petitioner's relationship to the minor.

18 c. If the petitioner is not the proposed guardian, the  
19 name and address of the proposed guardian and the reason the  
20 proposed guardian should be selected.

21 d. The name and address, to the extent known and  
22 ascertainable, of the following:

23 (1) Any living parents of the minor.

24 (2) Any legal custodian of the minor.

25 (3) Any adult who has had the primary care of the minor or  
26 with whom the minor has lived for at least six months prior to  
27 the filing of the petition.

28 3. The petition shall contain a concise statement of the  
29 factual basis for the petition.

30 4. The petition shall state whether a limited guardianship  
31 is appropriate.

32 5. Any additional information, to the extent known and  
33 reasonably ascertainable, required by section 598B.209 shall be  
34 included in an affidavit attached to the petition.

35 6. The petition may request that a temporary guardian for

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1 a minor may be appointed. Such a petition shall specify the  
2 duration of the requested temporary guardianship and the reason  
3 for a temporary guardianship.

4 Sec. 12. NEW SECTION. 232D.302 Notice.

5 1. The filing of a petition shall be served upon the  
6 minor who is the subject of the petition in the manner of an  
7 original notice in accordance with the rules of civil procedure  
8 governing such notice. Notice to the attorney representing the  
9 minor, if any, is notice to the minor.

10 2. Notice shall be served upon the minor's known parents  
11 listed in the petition in accordance with the rules of civil  
12 procedure.

13 3. Notice shall be served upon other known persons listed in  
14 the petition in the manner prescribed by the court, which may  
15 be notice by mail. Failure of such persons to receive actual  
16 notice does not constitute a jurisdictional defect precluding  
17 the appointment of a guardian by the court.

18 4. Notice of the filing of a petition given to a person  
19 under subsection 2 or 3 shall include a statement that the  
20 person may register to receive notice of the hearing on  
21 the petition and other proceedings and the manner of such  
22 registration.

23 Sec. 13. NEW SECTION. 232D.303 Attorney for minor.

24 1. Upon the filing of a petition for appointment of a  
25 guardian pursuant to section 232D.301, the court shall appoint  
26 an attorney for the minor, if the court determines that the  
27 interests of the minor are or may be inadequately represented.

28 2. An attorney representing the minor shall advocate  
29 for the wishes of the minor to the extent that those wishes  
30 are reasonably ascertainable and advocate for best interest  
31 of the minor if the wishes of the minor are not reasonably  
32 ascertainable.

33 Sec. 14. NEW SECTION. 232D.304 Attorney for parent.

34 Upon the filing of a petition for appointment of a guardian,  
35 the court shall appoint an attorney for the parent identified

1 in the petition if all of the following are true:

2 1. The parent objects to the appointment of a guardian for  
3 the minor.

4 2. The parent requests appointment of an attorney and  
5 the court determines that the parent is unable to pay for an  
6 attorney in accordance with section 232D.505.

7 Sec. 15. NEW SECTION. 232D.305 Court visitor.

8 1. The court may appoint a court visitor for the minor.

9 2. The same person shall not serve both as the attorney  
10 representing the minor and as court visitor.

11 3. Unless otherwise enlarged or circumscribed by the court,  
12 the duties of a court visitor with respect to the minor shall  
13 include all of the following:

14 a. Conducting, if the minor's age is appropriate, an initial  
15 in-person interview with the minor.

16 b. Explaining to the minor, if the minor's age is  
17 appropriate, the substance of the petition, the purpose and  
18 effect of the guardianship proceeding, the rights of the  
19 minor at the hearing, and the general powers and duties of a  
20 guardian.

21 c. Determining, if the minor's age is appropriate, the views  
22 of the minor regarding the proposed guardian, the proposed  
23 guardian's powers and duties, and the scope and duration of the  
24 proposed guardianship.

25 d. Interviewing the parent or parents and any other person  
26 with legal responsibility for the custody, care, or both, of  
27 the minor.

28 e. Interviewing the petitioner, and if the petitioner is not  
29 the proposed guardian, interviewing the proposed guardian.

30 f. Visiting, to the extent feasible, the residence where it  
31 is reasonably believed that the minor will live if the guardian  
32 is appointed.

33 g. Making any other investigation the court directs,  
34 including but not limited to interviewing any persons providing  
35 medical, mental health, educational, social, or other services

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1 to the minor.

2 4. The court visitor shall submit a written report to the  
3 court that contains all of the following:

4 a. A recommendation regarding the appropriateness of a  
5 guardianship for the minor.

6 b. A statement of the qualifications of the guardian  
7 together with a statement of whether the minor has expressed  
8 agreement with the appointment of the proposed guardian.

9 c. Any other matters the court visitor deems relevant to the  
10 petition for guardianship and the best interests of the minor.

11 d. Any other matters the court directs.

12 5. The report of the court visitor shall be made part of the  
13 court record unless otherwise ordered by the court.

14 Sec. 16. NEW SECTION. 232D.306 Hearing on petition.

15 1. The court shall fix the time and place of hearing on  
16 the petition and shall prescribe a time not less than twenty  
17 days after the date the notice is served unless the court finds  
18 there is good cause shown to shorten the time period. The  
19 court shall also prescribe the manner of service of the notice  
20 of such hearing.

21 2. The minor who is the subject of a petition filed pursuant  
22 to section 232D.301 shall be entitled to attend the hearing on  
23 the petition if the minor is of an age appropriate to attend  
24 the hearing. A presumption shall exist that a minor fourteen  
25 years of age or older is of an age appropriate to attend the  
26 hearing.

27 3. The court shall not exclude a minor entitled to  
28 attend the hearing under subsection 2 unless the court finds  
29 that there is good cause shown for excluding the minor from  
30 attendance.

31 Sec. 17. NEW SECTION. 232D.307 Background checks of  
32 proposed guardians.

33 1. The court shall request criminal record checks and checks  
34 of the child abuse, dependent adult abuse, and sex offender  
35 registries in this state for all proposed guardians other than

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1 financial institutions with Iowa trust powers unless a proposed  
2 guardian has undergone the required background checks in this  
3 section within the twelve months prior to the filing of a  
4 petition.

5 2. The court shall review the results of background checks  
6 in determining the suitability of a proposed guardian for  
7 appointment.

8 3. The judicial branch in conjunction with the department  
9 of public safety, the department of human services, and the  
10 state chief information officer shall establish procedures for  
11 electronic access to the single contact repository necessary to  
12 conduct background checks requested under subsection 1.

13 4. The person who files a petition for appointment of  
14 guardian for a minor shall be responsible for paying the fee  
15 for the background check conducted through the single contact  
16 repository unless the court waives the fee for good cause  
17 shown.

18 Sec. 18. NEW SECTION. 232D.308 **Selection of guardian —**  
19 **qualifications and preferences.**

20 1. The court shall appoint as guardian a qualified and  
21 suitable person who is willing to serve subject to the  
22 preferences as to the appointment of a guardian set forth in  
23 subsections 2 and 3.

24 2. In appointing a guardian for a minor, the court shall  
25 give preference to a person, if qualified and suitable,  
26 nominated as guardian for a minor by a will that was executed  
27 by the parent or parents having legal custody of the minor  
28 at the time of the parent's or parents' death, and that was  
29 admitted to probate under chapter 633.

30 3. In appointing a guardian for a minor, the court shall  
31 give preference, if qualified and suitable, to a person  
32 requested by a minor fourteen years of age or older.

33 Sec. 19. NEW SECTION. 232D.309 **Emergency appointment of**  
34 **temporary guardian.**

35 1. A person authorized to file a petition under section

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1 232D.301 may file a petition for the emergency appointment of a  
2 temporary guardian for the minor.

3 2. The petition shall state all of the following:

4 a. The name and address of the minor and the birthdate of  
5 the minor.

6 b. The name and address of the living parents of the minor,  
7 if known.

8 c. The name and address of any other person legally  
9 responsible for the custody or care of the minor, if known.

10 d. The reason the emergency appointment of a temporary  
11 guardian is sought.

12 3. The court may enter an ex parte order appointing a  
13 temporary guardian for a minor on an emergency basis under this  
14 section if the court finds that all of the following are met:

15 a. There is not sufficient time to file a petition and hold  
16 a hearing pursuant to section 232D.301.

17 b. The appointment of temporary guardian is necessary to  
18 avoid immediate or irreparable harm to the minor.

19 4. Notice of the emergency appointment of a temporary  
20 guardian shall be provided to persons required to be listed in  
21 the petition under subsection 2.

22 5. The parents of the minor and any other person legally  
23 responsible for the custody or care of the minor may file a  
24 written request for a hearing. Such hearing shall be held no  
25 later than seven days after the filing of the written request.

26 6. The powers of the temporary guardian set forth in the ex  
27 parte order shall be limited to those necessary to address the  
28 emergency situation requiring the appointment of a temporary  
29 guardian.

30 7. The ex parte order shall terminate within thirty days  
31 after the order is issued.

32 Sec. 20. NEW SECTION. 232D.310 Appointment of a guardian  
33 for a minor on a standby basis.

34 1. An adult person having physical and legal custody of  
35 a minor may execute a verified petition for the appointment

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1 of a guardian of the minor upon the express condition that  
2 the petition shall be acted upon by the court only upon  
3 the occurrence of an event specified or the existence of a  
4 described condition of the mental or physical health of the  
5 petitioner, the occurrence of which event, or the existence of  
6 which condition, shall be established in the manner directed  
7 in the petition. The petition, in addition to containing  
8 the information required in section 232D.301, shall include  
9 a statement that the petitioner understands the result of a  
10 guardian being appointed for the minor. An appointment of a  
11 guardian for a minor shall only be effective until the minor  
12 attains full age.

13 2. A standby petition may nominate a person for appointment  
14 to serve as guardian as well as alternate guardians if the  
15 nominated person is unable or unwilling or is removed as  
16 guardian. The court in appointing the guardian shall appoint  
17 the person or persons nominated by the petitioner unless the  
18 person or persons are not qualified or for other good cause and  
19 shall give due regard to other requests and recommendations  
20 contained in the petition.

21 3. A standby petition may be deposited with the clerk of the  
22 county in which the minor resides or with any person nominated  
23 by the petitioner to serve as guardian.

24 4. A standby petition may be revoked by the petitioner  
25 at any time before appointment of a guardian by the court,  
26 provided that the petitioner is of sound mind at the time  
27 of revocation. Revocation shall be accomplished by the  
28 destruction of the petition by the petitioner, or by the  
29 execution of an acknowledged instrument of revocation. If the  
30 petition has been deposited with the clerk, the revocation may  
31 likewise be deposited there.

32 5. If the standby petition has been deposited with the  
33 clerk under the provisions of subsection 3 and has not been  
34 revoked under the provisions of subsection 4, the petition may  
35 be filed with the court upon the filing of a verified statement

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1 to the effect that the occurrence of the event or the condition  
2 provided for in the petition has occurred. If the petition  
3 has not been deposited with the clerk under the provisions of  
4 subsection 3 and has not been revoked under the provisions  
5 of subsection 4, then the petition shall be filed with the  
6 court at the time a verified statement that the occurrence  
7 of the event or the condition provided for in the petition  
8 has occurred is filed with the court in the county where the  
9 minor then resides. Upon filing of the petition and verified  
10 statement, the person filing the verified statement shall  
11 become the petitioner and the proceedings shall be thereafter  
12 conducted as provided for in this chapter.

13 6. A standby petition for the appointment of a guardian for  
14 a minor shall not supersede any contradictory provision in a  
15 will admitted to probate of a parent, guardian, or custodian  
16 having physical and legal custody of a minor in the event of  
17 the parent's, guardian's, or custodian's death.

18 Sec. 21. NEW SECTION. 232D.311 **Appointment of guardian for**  
19 **minor approaching majority on a standby basis.**

20 Notwithstanding section 232D.103, any adult with an interest  
21 in the welfare of a minor who is at least seventeen years and  
22 six months of age may file a verified petition pursuant to  
23 section 633.552 to initiate a proceeding to appoint a guardian  
24 of the minor to take effect on the minor's eighteenth birthday.

25 Sec. 22. NEW SECTION. 232D.401 **Order appointing guardian**  
26 **and powers of guardian.**

27 1. The order by the court appointing a guardian for a minor  
28 shall state the basis for the order.

29 2. The order by the court appointing a guardian for a minor  
30 shall state whether the guardianship is a limited guardianship.

31 3. An order by the court appointing a guardian for a minor  
32 shall state the powers granted to the guardian. Except as  
33 otherwise limited by court order, the court may grant the  
34 guardian the following powers, which may be exercised without  
35 prior court approval:

1     *a.* Taking custody of the minor and establishing the minor's  
2 permanent residence if otherwise consistent with the terms of  
3 any order of competent jurisdiction relating to the custody,  
4 placement, detention, or commitment of the minor within the  
5 state.

6     *b.* Consenting to medical, dental, and other health care  
7 treatment and services for the minor.

8     *c.* Providing or arranging for the provision of education  
9 for the minor including but not limited to preschool education,  
10 primary education and secondary education, special education  
11 and related services, and vocational services.

12    *d.* Consenting to professional services for the minor to  
13 ensure the safety and welfare of the minor.

14    *e.* Applying for and receiving funds and benefits payable for  
15 the support of the minor.

16    *f.* Any other powers the court may specify.

17    4. The court may grant the guardian the following powers,  
18 which shall only be exercised with prior court approval:

19     *a.* Consenting to the withholding or withdrawal of  
20 life-sustaining procedures, as defined in section 144A.2, from  
21 the minor, the performance of an abortion on the minor, or the  
22 sterilization of the minor.

23     *b.* Establishing the residence of the minor outside of the  
24 state.

25     *c.* Consenting to the marriage of the minor.

26     *d.* Consenting to the emancipation of the minor.

27    5. The guardian shall obtain prior court approval for denial  
28 of all visitation, communication, or interaction between the  
29 minor and the parents of the minor. The court shall approve  
30 such denial of visitation, communication, or interaction  
31 upon a showing by the guardian that significant physical or  
32 emotional harm to the minor has resulted or is likely to result  
33 to the minor from parental contact. The guardian may place  
34 reasonable time, place, or manner restrictions on visitation,  
35 communication, or interaction between the minor and the minor's

1 parents without prior court approval.

2     Sec. 23. NEW SECTION.   **232D.402 Duties and responsibilities**  
3 **of guardian.**

4     1. A guardian is a fiduciary and shall act in the  
5 best interest of the minor and exercise reasonable care,  
6 diligence, and prudence in performing guardianship duties and  
7 responsibilities. The fiduciary duties of a guardian for an  
8 adult set forth in chapter 633 are applicable to a guardian  
9 under this chapter.

10    2. Except as otherwise limited by the court, a guardian  
11 has the duty and responsibility to ensure the minor's health,  
12 education, safety, welfare, and support.

13    3. A guardian with whom the minor is not living should  
14 maintain regular contact with the minor.

15    4. A guardian should make reasonable efforts to facilitate  
16 the continuation of the relationship of the minor and the  
17 minor's parents subject to section 232D.401, subsection 5.

18    5. A guardian shall file the reports with the court required  
19 under section 232D.501.

20    6. A guardian shall promptly inform the court of any change  
21 in the permanent residence of the minor and the minor's new  
22 address.

23    7. A guardian shall promptly inform the court of any change  
24 in the minor's school or school district.

25     Sec. 24. NEW SECTION.   **232D.403 Guardian's acceptance of**  
26 **appointment and oath and issuance of letters of appointment.**

27     The court shall issue letters of appointment to a guardian  
28 upon the guardian's acceptance of appointment and the  
29 guardian's subscription of an oath, or certification under  
30 penalties of perjury, that the guardian will faithfully  
31 discharge the duties imposed by law, according to the best of  
32 the guardian's ability.

33     Sec. 25. NEW SECTION.   **232D.501 Reports of guardian.**

34     1. A guardian appointed by the court under this chapter  
35 shall file the following reports which shall not be waived by

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1 the court:

2     *a.* A verified initial care plan filed within sixty days of  
3 appointment. The information in the initial care plan shall  
4 include but not be limited to the following information:

5       (1) The minor's current residence and guardian's plan for  
6 the minor's living arrangements.

7       (2) The guardian's plan for payment of the minor's living  
8 expenses and other expenses.

9       (3) The minor's health status and the guardian's plan for  
10 meeting the minor's health needs.

11       (4) The minor's educational training and vocational needs  
12 and the guardian's plan for meeting the minor's educational  
13 training and vocational needs.

14       (5) The guardian's plan for facilitating contacts of the  
15 minor with the minor's parents.

16       (6) The guardian's plan for contact with and activities on  
17 behalf of the minor.

18     *b.* A verified annual report filed within thirty days of  
19 the close of the reporting period. The information in the  
20 annual report shall include but not be limited to the following  
21 information:

22       (1) The current residence and living arrangements of the  
23 minor.

24       (2) The sources of the payment for the minor's living  
25 expenses and other expenses.

26       (3) The minor's health status and health services provided  
27 the minor.

28       (4) The minor's mental, behavioral, or emotional problems,  
29 if any, and professional services provided the minor for such  
30 problems.

31       (5) The minor's educational status and educational training  
32 and vocational services provided the minor.

33       (6) The nature and extent of parental visits and  
34 communication with the minor.

35       (7) The nature and extent of the guardian's visits with and

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1 activities on behalf of the minor.

2 (8) The need for continuation of guardianship.

3 (9) The ability of the guardian to continue as guardian.

4 (10) The need of the guardian for assistance in providing or  
5 arranging for the provision of care for the minor.

6 c. A final report filed within thirty days of the  
7 termination of the guardianship under section 232D.503.

8 2. The judicial branch shall prescribe the forms for use by  
9 the guardian in filing the reports required by this section.

10 3. The clerk of the court shall notify the guardian in  
11 writing of the reporting requirements and shall provide  
12 information and assistance to the guardian in filing the  
13 reports.

14 4. Reports of the guardian shall be reviewed and approved  
15 by the court.

16 Sec. 26. NEW SECTION. 232D.502 Removal of guardian —  
17 appointment of successor guardian.

18 1. The court may remove a guardian for a minor for failure  
19 to perform guardianship duties or for other good cause shown.

20 2. The court shall conduct a hearing to determine whether  
21 a guardian should be removed on the filing of a petition by  
22 a minor under guardianship who is fourteen years of age or  
23 older, the parent of a minor, or other person with an interest  
24 in welfare of the minor if the court determines that there are  
25 reasonable grounds for believing that removal is appropriate  
26 based on the allegations stated in the petition.

27 3. The court may conduct a hearing to determine whether  
28 the guardian should be removed on the receipt of a written  
29 communication from a minor under guardianship who is fourteen  
30 years of age or older, the parent of the minor, or other  
31 person with an interest in welfare of the minor if the court  
32 determines that a hearing would be in the best interest of the  
33 minor.

34 4. The court may decline to hold a hearing under subsection  
35 2 or 3 if the same or substantially similar facts were alleged

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1 in a petition filed in the preceding six months or in a written  
2 communication received in the preceding six months.

3 5. The court may appoint a successor guardian on the  
4 removal of a guardian pursuant to subsection 1, the death of a  
5 guardian, or the resignation of a guardian.

6 Sec. 27. NEW SECTION. 232D.503 Termination and modification  
7 of guardianships.

8 1. A guardianship shall terminate on the minor's death,  
9 adoption, emancipation, or attainment of majority.

10 2. The court shall terminate a guardianship established  
11 pursuant to section 232D.203 if the court finds that the basis  
12 for the guardianship set forth in section 232D.203 is not  
13 currently satisfied unless the court finds that the termination  
14 of the guardianship would be harmful to the minor and the  
15 minor's interest in continuation of the guardianship outweighs  
16 the interest of a parent of the minor in the termination of the  
17 guardianship.

18 3. The court shall terminate a guardianship established  
19 pursuant to section 232D.204 if the court finds that the  
20 basis for the guardianship set forth in section 232D.204  
21 is not currently satisfied. A person seeking termination  
22 of guardianship established pursuant to section 232D.204  
23 has the burden of making a prima facie showing that the  
24 guardianship should be terminated. If such a showing is made,  
25 the guardian has the burden of going forward to prove by clear  
26 and convincing evidence that the guardianship should not be  
27 terminated.

28 4. The court shall modify the powers granted to the guardian  
29 if the court finds such powers no longer meet the needs of the  
30 minor or are not in the minor's best interest.

31 5. The court may conduct a hearing to determine whether  
32 termination or modification of a guardianship is appropriate  
33 on the filing of a petition by a minor fourteen years of age or  
34 older who is under guardianship, a guardian, or other person  
35 with an interest in the welfare of the minor or on receipt of a

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1 written communication from such persons.

2     Sec. 28. NEW SECTION.   232D.504   Rights and immunities of  
3 a guardian.

4     1. A guardian is not required to use the guardian's personal  
5 funds for the minor's expenses. If a conservator has been  
6 appointed for the estate of the minor, the guardian may request  
7 and the conservator may approve and pay for the requested  
8 reimbursement without prior court approval.

9     2. A guardian may submit a request, together with the  
10 guardian's annual report, for approval by the court of  
11 reasonable compensation for services as guardian.

12     3. Notwithstanding section 137C.25B or any other provision  
13 of law to the contrary, a guardian is not liable to a third  
14 person for an act or omission of the minor solely by reason of  
15 the guardianship.

16     Sec. 29. NEW SECTION.   232D.505   Expenses.

17     1. Except as otherwise provided by law, the court shall  
18 inquire into the ability of the minor or the minor's parent to  
19 pay expenses incurred pursuant to the guardianship proceedings  
20 established under this chapter. After giving the minor and  
21 the parent a reasonable opportunity to be heard, the court  
22 may order the minor or the parent to pay all or part of the  
23 following:

24     a. Costs of legal expenses of the minor and the parent.

25     b. Expenses for a court visitor.

26     c. Filing fees and other court costs, unless the costs are  
27 waived for good cause shown.

28     2. If the court finds a minor's parents to be indigent, or  
29 if the minor has no parent, costs shall be assessed against  
30 the county in which the proceeding is pending. For purposes  
31 of assessing costs under this subsection, the court shall find  
32 a minor's parents to be indigent if the minor's or the parent's  
33 income and resources do not exceed one hundred fifty percent  
34 of the federal poverty level, or the minor's parent would be  
35 unable to pay such costs without prejudicing the parent's

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1 ability to provide economic necessities for the parent or the  
2 parent's dependents.

3 DIVISION II

4 CORRESPONDING CODE CHANGES

5 Sec. 30. Section 232.101A, Code 2019, is amended to read as  
6 follows:

7 **232.101A Transfer of guardianship to custodian.**

8 1. After a dispositional hearing the court may ~~enter an~~  
9 ~~order transferring guardianship of the child to a custodian~~  
10 close the child in need of assistance case and appoint a  
11 guardian pursuant to sections 232D.308 and 232D.401 if all of  
12 the following conditions are met:

13 a. The person receiving guardianship meets the definition  
14 of custodian in [section 232.2](#).

15 b. The person receiving guardianship has assumed  
16 responsibility for the child prior to filing of the petition  
17 under [this division](#) and has maintained placement of the child  
18 since the filing of the petition under [this division](#).

19 c. The parent of the child does not appear at the  
20 dispositional hearing, or the parent appears at the  
21 dispositional hearing, does not object to the transfer of  
22 guardianship, and agrees to waive the requirement for making  
23 reasonable efforts as defined in [section 232.102](#).

24 2. If the court ~~transfers guardianship~~ appoints a guardian  
25 pursuant to [subsection 1](#), the court may close the child in  
26 need of assistance case ~~by transferring jurisdiction over the~~  
27 ~~child's guardianship to the probate court.~~ The court shall  
28 inform the proposed guardian of the guardian's reporting duties  
29 under ~~[section 633.669](#)~~ [232D.501](#) and other duties under chapter  
30 ~~633~~ [232D](#). ~~Upon transferring jurisdiction, the~~ The court shall  
31 direct the ~~probate clerk of court~~, once the proposed guardian  
32 has filed an oath of office and identification ~~in accordance~~  
33 ~~with [section 602.6111](#)~~, to issue letters of appointment for  
34 guardianship and ~~docket the case in probate.~~ ~~Records contained~~  
35 ~~in the probate case file that were copied or transferred from~~

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1 ~~the juvenile court file concerning the case shall be subject to~~  
2 ~~section 232.147 and other confidentiality provisions of this~~  
3 ~~chapter for cases not involving juvenile delinquency.~~

4 Sec. 31. Section 232.104, subsection 8, paragraph b, Code  
5 2019, is amended to read as follows:

6 b. In lieu of the procedures specified in paragraph "a",  
7 the court may close the child in need of assistance case by  
8 ~~transferring jurisdiction over the child's guardianship to the~~  
9 ~~probate court and may appoint a guardian pursuant to chapter~~  
10 ~~232D. The court shall inform the proposed guardian of the~~  
11 ~~guardian's reporting duties under section 633.669 and other~~  
12 ~~duties under the probate code. Upon transferring jurisdiction,~~  
13 ~~the court shall direct the probate clerk, once the proposed~~  
14 ~~guardian has filed an oath of office and identification~~  
15 ~~in accordance with section 602.6111, to issue letters of~~  
16 ~~appointment for guardianship and docket the case in probate.~~  
17 ~~Records contained in the probate case file that were copied or~~  
18 ~~transferred from the juvenile court file concerning the case~~  
19 ~~shall be subject to section 232.147 and other confidentiality~~  
20 ~~provisions of this chapter for cases not involving juvenile~~  
21 ~~delinquency.~~

22 Sec. 32. Section 235A.15, subsection 2, paragraph d,  
23 subparagraphs (1) and (2), Code 2019, are amended to read as  
24 follows:

25 (1) To a juvenile court involved in an adjudication or  
26 disposition of a child named in a report or a child that is the  
27 subject of a guardianship proceeding under chapter 232D.

28 (2) To a district court upon a finding that data is  
29 necessary for the resolution of an issue arising in any phase  
30 of a case involving child abuse or guardianship proceedings for  
31 a child under chapter 232D.

32 Sec. 33. Section 235B.6, subsection 2, paragraph d, Code  
33 2019, is amended by adding the following new subparagraphs:

34 NEW SUBPARAGRAPH. (5) To a juvenile court involved in an  
35 adjudication or disposition of a child that is the subject of a

1 guardianship proceeding under chapter 232D.

2 NEW SUBPARAGRAPH. (6) To a district court upon a finding  
3 that data is necessary for the resolution of an issue arising  
4 in any phase of a case involving proceedings for a child  
5 guardianship under chapter 232D.

6 Sec. 34. Section 602.7101, subsection 1, Code 2019, is  
7 amended to read as follows:

8 1. A juvenile court is established in each county. The  
9 juvenile court is within the district court and has the  
10 jurisdiction provided in chapter chapters 232 and 232D.

11 Sec. 35. Section 602.8102, subsection 42, Code 2019, is  
12 amended to read as follows:

13 42. Serve as clerk of the juvenile court and carry out  
14 duties as provided in chapter chapters 232 and 232D and article  
15 7 of this chapter.

16 Sec. 36. Section 633.10, subsection 3, Code 2019, is amended  
17 to read as follows:

18 3. *Conservatorships and guardianships.*

19 a. The Except as provided for in paragraph "b", the  
20 appointment of conservators and guardians; the granting  
21 of letters of conservatorship and guardianship; the  
22 administration, settlement and closing of conservatorships and  
23 guardianships.

24 b. Beginning the effective date of this Act, minor  
25 guardianships are under the exclusive jurisdiction of the  
26 juvenile court pursuant to, and except as limited by, chapter  
27 232D.

28 Sec. 37. Section 633.552, subsection 2, Code 2019, is  
29 amended to read as follows:

30 2. That the proposed ward is ~~in either of the following~~  
31 ~~categories:~~

32 ~~a. Is a person whose decision-making capacity is so~~  
33 ~~impaired that the person is unable to care for the person's~~  
34 ~~personal safety or to attend to or provide for necessities for~~  
35 ~~the person such as food, shelter, clothing, or medical care,~~

1 without which physical injury or illness might occur.

2 ~~b. Is a minor.~~

3 Sec. 38. Section 633.554, subsection 2, Code 2019, is  
4 amended to read as follows:

5 2. a. ~~If the proposed ward is a minor or if the~~  
6 proposed ward is an adult under a standby petition and the  
7 court determines, pursuant to section 633.561, subsection  
8 1, paragraph "b", that the proposed ward is entitled to  
9 representation, notice in the manner of original notice, or  
10 another form of notice ordered by the court, given to the  
11 attorney appointed to represent the ward is notice to the  
12 proposed ward.

13 b. Notice shall also be served upon:

14 ~~(1) The parents of the proposed ward, if the proposed ward~~  
15 ~~is a minor.~~

16 ~~(2) The~~ the spouse of the proposed ward, if the proposed  
17 ward is an adult. If the proposed ward has no spouse, notice  
18 shall be served upon the proposed ward's adult children, if  
19 any.

20 Sec. 39. Section 633.557, subsection 1, Code 2019, is  
21 amended to read as follows:

22 1. A guardian may also be appointed by the court upon the  
23 verified petition of the proposed ward, without further notice,  
24 ~~if the proposed ward is other than a minor under the age of~~  
25 ~~fourteen years,~~ provided the court determines that such an  
26 appointment will inure to the best interest of the applicant.  
27 However, if an involuntary petition is pending, the court shall  
28 be governed by [section 633.634](#). The petition shall provide  
29 the proposed ward notice of a guardian's powers as provided in  
30 section 633.562.

31 Sec. 40. Section 633.561, subsection 1, paragraph b, Code  
32 2019, is amended to read as follows:

33 b. If the proposed ward is ~~either a minor or~~ an adult under  
34 a standby petition, the court shall determine whether, under  
35 the circumstances of the case, the proposed ward is entitled

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1 to representation. The determination regarding representation  
2 may be made with or without notice to the proposed ward, as  
3 the court deems necessary. If the court determines that the  
4 proposed ward is entitled to representation, the court shall  
5 appoint an attorney to represent the proposed ward. After  
6 making the determination regarding representation, the court  
7 shall set a hearing on the petition, and provide for notice on  
8 the determination regarding representation and the date for  
9 hearing.

10 Sec. 41. Section 633.635, subsection 5, Code 2019, is  
11 amended to read as follows:

12 5. From time to time, upon a proper showing, the court may  
13 modify the respective responsibilities of the guardian and  
14 the ward, after notice to the ward and an opportunity to be  
15 heard. Any modification that would be more restrictive or  
16 burdensome for the ward shall be based on clear and convincing  
17 evidence that the ward continues to fall within the categories  
18 of [section 633.552, subsection 2](#), ~~paragraph "a" or "b"~~, and  
19 that the facts justify a modification of the guardianship.  
20 Section 633.551 applies to the modification proceedings. Any  
21 modification that would be less restrictive for the ward shall  
22 be based upon proof in accordance with the requirements of  
23 section 633.675.

24 Sec. 42. Section 633.675, subsection 2, Code 2019, is  
25 amended by striking the subsection.

26 Sec. 43. Section 633.679, subsection 2, Code 2019, is  
27 amended by striking the subsection.

28 Sec. 44. REPEAL. Section 633.559, Code 2019, is repealed.

29 Sec. 45. EFFECTIVE DATE. This Act takes effect January 1,  
30 2020.

31 Sec. 46. APPLICABILITY. This Act applies to guardianships  
32 and guardianship proceedings of minors established or pending  
33 before, on, or after January 1, 2020.>



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DAN DAWSON